

Claims	Exemplary Support in the Specification
72-74; 80-82; 88-90 (recombinant host cells, vectors, library)	
19; 27; 35; 43; 51; 59; 67; 75; 83; 91 (methods of making polypeptides using recited nucleic acid )	See the specification at, for example, page 9, line 12 to page 10, line 20.

No new matter is added.

### **Restriction Requirement**

In the Office Action dated July 3, 2000, the Examiner set forth a Restriction Requirement requiring election of one of the following groups of claims:

- Group I: claims 1, 2, 4-7, 10 and 11, drawn to nucleic acids, cells, and vector comprising the nucleic acids;
- Group II: claim 8, drawn to a polypeptide;
- Group III: claim 9, drawn to an antibody specific for the polypeptide; and
- Group IV: claim 12, drawn to a method of detecting genes.

Applicants hereby elect to prosecute the claims of Group I, claims 1, 2, 4-7, 10 and 11, without traverse.

Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected subject matter during the pendency of this application.

Applicants note that new claims 13-92 correspond to subject matter of the claims of Group I, and further add claims to a method of making a polypeptide using the recited nucleic acid.

### **Sequence Election Requirement Under MPEP §803.04**

In addition to the Restriction Requirement, the Office Action further required a election of ten (10) sequences for examination in the elected Group. Applicants hereby elect to prosecute the polynucleotides having the sequences of SEQ ID NOS: 730, 731, 919, 972, 973, 1128, 1192, 1254, 1290, and 1492. The claims pending after entry of the amendments set forth above are now directed to these elected polynucleotides.



Atty Dkt. No.: 1487.002  
USSN: 09/313.292

The claims which correspond to each of the elected sequences are summarized in the table below.

SEQ ID NO	Claims
730	13-20
731	21-28
919	29-36
972	37-44
973	45-52
1128	53-60
1192	61-68
1254	69-76
1290	77-84
1492	85-92

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815.

Respectfully submitted,  
BOZICEVIC, FIELD & FRANCIS LLP

Date: September 5, 2000

By: Carol L. Francis  
Carol L. Francis  
Registration No. 36,513

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Enclosures: ATCC deposit certificates  
Substitute specification page 69

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# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE  
INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Chiron Inc.  
Attn: Karen Van Note  
4560 Horton Street  
Emeryville, CA 94608

Deposited on Behalf of: Chiron Inc.

Identification Reference by Depositor:

Patent Deposit Designation

Mixture of clones containing novel genes from colon cancer cell lines (human):

CMCC #4984	52	PTA-46
CMCC #4966	34	PTA-47
CMCC #4970	38	PTA-48
CMCC #4980	40	PTA-49
CMCC #4982	50	PTA-50
CMCC #4985	53	PTA-51

The deposits were accompanied by: \_\_\_ a scientific description \_ a proposed taxonomic description indicated above. The deposits were received May 13, 1999 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

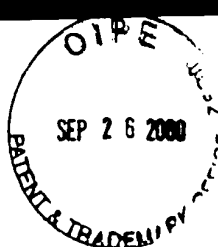
The viability of the cultures cited above was tested May 18, 1999. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Barbara M. Hailey, Administrator, Patent Depository

cc: Jane Potter (Ref. 1487.1)



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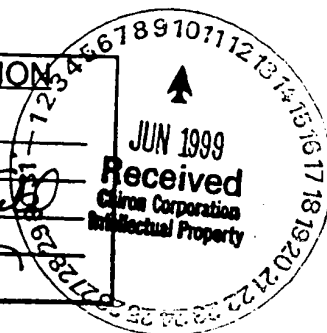
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2300-148700

FOR YOUR INFORMATION

Date: 6/17/99

To: Lazal Flanigan  
Dorjemi Field

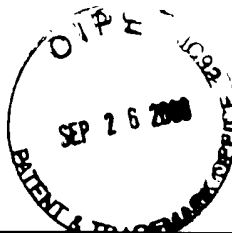
From: Chiron Corporation



Date: June 7, 1999

KLM  
1487.100

# ATCC



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To: (Name and Address of Depositor or Attorney)

Chiron Inc.  
Attn: Karen Van Note  
4560 Horton Street  
Emeryville, CA 94608

FOR YOUR INFORMATION	
Date:	6/17/99
To:	Coral Gables
From:	B F & F
Chiron Corporation	

JUN 1999  
Received  
Chiron Corporation  
Intellectual Property

Deposited on Behalf of: Chiron Inc.

Identification Reference by Depositor:

Patent Deposit Designation

Mixture of clones containing novel genes from colon cancer cell lines (human):

CMCC #4973	41	PTA-52
CMCC #4974	42	PTA-53
CMCC #4968	36	PTA-54
CMCC #4976	44	PTA-55
CMCC #4979	47	PTA-56
CMCC #4967	35	PTA-57

The deposits were accompanied by: \_\_\_ a scientific description \_ a proposed taxonomic description indicated above. The deposits were received May 13, 1999 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

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Signature of person having authority to represent ATCC:

Barbara M. Hailey, Administrator, Patent Depository

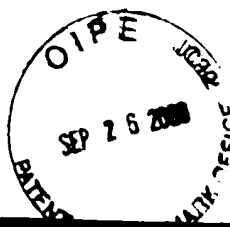
Date: June 7, 1999

cc: Jane Potter (Ref. 1487.1)

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To: (Name and Address of Depositor or Attorney)

Chiron Inc.  
Attn: Karen Van Note  
4560 Horton Street  
Emeryville, CA 94608

FOR YOUR INFORMATION	
Date:	6/17/99
To:	Lisa Fenn BF&F
From:	Chiron Corporation

Received  
Chiron Corporation  
Intellectual Property  
JUN 1999

Deposited on Behalf of: Chiron Inc.

Identification Reference by Depositor:

Patent Deposit Designation

Mixture of clones containing novel genes from colon cancer cell lines (human):

CMCC #4969	37	PTA-58
CMCC #4986	54	PTA-59
CMCC #4971	39	PTA-60
CMCC #4977	45	PTA-61
CMCC #4975	43	PTA-62
CMCC #4972	40	PTA-63

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Barbara M. Hailey, Administrator, Patent Depository

Date: June 7, 1999

cc: Jane Potter (Ref. 1487.1)

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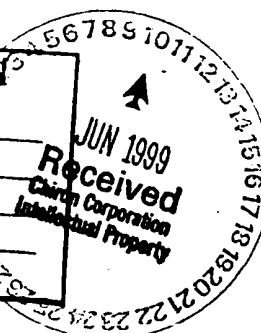
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To: (Name and Address of Depositor or Attorney)

Chiron Inc.  
Attn: Karen Van Note  
4560 Horton Street  
Emeryville, CA 94608

FOR YOUR INFORMATION	
Date:	6/17/99
To:	Carol Francis
	BFD
From:	Chiron Corporation



Deposited on Behalf of: Chiron Inc.

Identification Reference by Depositor:

Patent Deposit Designation

Mixture of clones containing novel genes from colon cancer cell lines (human):

CMCC #4978 46  
CMCC #4983 51  
CMCC #4981 49

PTA-64  
PTA-65  
PTA-66

The deposits were accompanied by:      a scientific description      a proposed taxonomic description indicated above. The deposits were received May 13, 1999 by this International Depository Authority and have been accepted.

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Barbara M. Hailey, Administrator, Patent Depository

Date: June 7, 1999

cc: Jane Potter (Ref. 1487.1)

6/10/99  
JPH